

RECORDATION NO. 29586 FILED

DEC 28 '10 -8 00 AM

SURFACE TRANSPORTATION BOARD

ALVORD AND ALVORD  
ATTORNEYS AT LAW  
1050 SEVENTEENTH STREET, N.W.

SUITE 301  
WASHINGTON, D.C.

20036

(202) 393-2266

FAX (202) 393-2156

E-MAIL [alvordlaw@aol.com](mailto:alvordlaw@aol.com)

ELIAS C. ALVORD (1942)  
ELLSWORTH C. ALVORD (1964)

December 28, 2010

Chief  
Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 "E" Street, S.W.  
Washington, D.C. 20423

Dear Section Chief:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Security Agreement, dated as of December 31, 2010, a primary document as defined in the Board's Rules for the Recordation of Documents.

The names and addresses of the parties to the enclosed document are:

Secured Party: Key Government Finance, Inc.  
1000 S. McCaslin Blvd.  
Superior, CO 80027

Debtor: Alaska Railroad Corporation  
327 West Ship Creek Avenue  
Anchorage, Alaska 99501

Chief, Section of Administration  
December 28, 2010  
Page 2

A description of the railroad equipment covered by the enclosed document is:

20 locomotives: ARR 4001 - ARR 4012 and ARR 4317 - ARR 4324.

A short summary of the document to appear in the index is:

Security Agreement.

Also enclosed is a check in the amount of \$41.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read "Alvord", with a long horizontal stroke extending to the right.

Robert W. Alvord

RWA/sem  
Enclosures

DEC 28 '10 -8 00 AM

## SECURITY AGREEMENT

SURFACE TRANSPORTATION BOARD

THIS SECURITY AGREEMENT (this "Security Agreement") dated as of December 31, 2010, between Alaska Railroad Corporation ("Debtor") and Key Government Finance, Inc. ("Secured Party").

## RECITALS:

WHEREAS, Debtor in that certain Master Tax-Exempt Installment Purchase Agreement, dated July 9, 2003 (the "Master Agreement"), between Secured Party and Debtor and the Property Schedule No 04, with a commencement date of December 31, 2010, pursuant to said Master Agreement (the "Property Schedule") granted to Secured Party a security interest in certain property to secure Debtor's obligation under the Master Agreement, the Property Schedule and any future property schedules executed by the parties pursuant to the Master Agreement, (the Master Agreement, the Property Schedule and any future property schedules being hereinafter referred to herein as the "Master Contract");

## AGREEMENT:

NOW, THEREFORE, in consideration of the agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. Definitions.

(a) Collateral. The property subject to this Agreement (the "Collateral") shall consist of the following personal property of Debtor, wherever located:

(i) the locomotives with Serial / Road Numbers as follows ("Locomotive(s)"):

20036536-001 / ARR4317  
20036536-002 / ARR4318  
20036536-003 / ARR4319  
20036536-004 / ARR4320  
20036536-005 / ARR4321  
20036536-006 / ARR4322  
20036536-007 / ARR4323  
20036536-008 / ARR4324  
976819-1 / ARR4001  
976819-2 / ARR4002  
976819-3 / ARR4003  
976819-4 / ARR4004  
976819-5 / ARR4005  
976819-6 / ARR4006  
976819-7 / ARR4007  
976819-8 / ARR4008  
976819-9 / ARR4009  
976819-10 / ARR4010  
976819-11 / ARR4011  
976819-12 / ARR4012; and

(ii) all replacements, repairs, restorations, modifications and improvements thereof or thereto, and the proceeds and products of the foregoing, including insurance proceeds.

(b) Obligations. This Agreement secures the following (the "Obligations")

(i) Debtor's obligation to pay the Installment Payments under the Master Contract, and all other payment obligations under the Master Contract;

(ii) The repayment of (A) any amounts that Secured Party may advance or spend for the maintenance or preservation of the Collateral and (B) any other expenditures that Secured Party may make under the provisions of this Agreement or for the benefit of Debtor;

(iii) All amounts owed under any modification, renewals or extensions of any of the foregoing obligations;

(iv) Any of the foregoing that arises after the filing of a petition by or against Debtor under the Bankruptcy Code, even if the obligations do not accrue because of the automatic stay under Bankruptcy Code § 362 or otherwise.

(c) UCC. Any term used in the Alaska Uniform Commercial Code ("UCC") and not defined in this Agreement shall have the meaning given to the term in the UCC.

**Section 2. Grant of Security Interest.** Debtor grants a security interest in the Collateral to Secured Party to secure the payment and performance of the Obligations.

**Section 3. Perfection of Security Interests.**

(a) Filing of a Financing Statement Debtor authorizes Secured Party to file a financing statement (the "Financing Statement") describing the Collateral.

(b) Filing of this Agreement with the Federal Surface Transportation Board. Debtor authorizes Secured Party to file an executed copy of this Agreement with the Federal Surface Transportation Board (FSTB) to perfect the security interest in the Collateral. Debtor shall pay all costs of such filing, including cost of lien searches of the records of the FSTB with respect to the Collateral

**Section 4. Covenants and Rights Concerning the Collateral.** Debtor covenants and agrees with Secured Party as follows:

(a) Inspection. Secured Party may inspect any Collateral in Debtor's possession, at any time during normal business hours of Debtor, upon reasonable notice

(b) Risk of Loss. Debtor has the risk of loss of the Collateral. Secured Party has no duty to collect any income accruing on the Collateral or to preserve any rights relating to the Collateral.

(c) No Disposition Secured Party does not authorize, and Debtor agrees not to make any sales, leases or other transfers of any of the Collateral or grant any other security interest in any of the Collateral.

(d) Insurance. At its own expense, Debtor shall maintain (a) casualty insurance insuring the Collateral against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State of Alaska for rolling stock such as the Collateral, and any other risks reasonably required by Secured Party in an amount equal to at least the outstanding principal component of Installment Payments under the Property Schedule, and (b) liability insurance that protects Secured Party from liability in all events in an amount reasonably acceptable to Secured Party, and (c) worker's compensation insurance covering all employees working on, in, near or about the Collateral; provided that Debtor may self insure against all such risks. All insurance proceeds from casualty losses shall be payable as hereinafter provided in this Agreement. All such insurance shall be with insurers that are authorized to issue such insurance in the State of Alaska. All such liability insurance shall name Secured Party as an additional insured. All such casualty insurance shall contain a provision making any losses payable to Secured Party and Debtor as their respective interests may appear. All such insurance shall contain a provision to the effect that such insurance shall not be canceled or modified without first giving written notice thereof to Secured Party and Debtor at least thirty (30) days in advance of such cancellation or modification. Such changes shall not become effective without Secured Party's prior written consent. Debtor shall furnish to Secured Party, on or before the Commencement Date for the Property Schedule, and thereafter at Secured Party's request, certificates evidencing such coverage, or, if and to the extent that Debtor self-insures, a written description of its self-insurance program together with a certification from Debtor's risk manager or insurance agent or consultant to the effect that Debtor's self-insurance program provides adequate coverage against the risks listed above.

(e) Liens; Maintenance Except where it has received the prior written consent of Secured Party, Debtor shall keep the Collateral free from any adverse liens, security interests or encumbrances, and in good order and repair and shall not commit or permit waste or destruction of the Collateral or any portion thereof. Debtor will not use or permit anyone to use the Collateral in violation of any federal or state statute, ordinance, or state or federal regulation

(f) Payment of Obligations. Debtor will pay or cause to be paid promptly when due all taxes and assessments upon the Collateral

(g) Payment. Following the occurrence of an Event of Default, or following the occurrence of an event which, with the passage of time or the giving of notice (or both), would be an Event of Default, Secured Party, at its option, may discharge taxes, liens, or security interests or other encumbrances at any time levied or placed on the Collateral, and may pay for insurance on the Collateral and may pay for the maintenance and preservation of the Collateral and all such payments shall become a part of Debtor's obligation secured hereby, payable on demand, with interest as an Advance under Section 8.04 of the Master Contract from the date of demand until paid. Such right shall be in addition to any other rights or any remedies to which Secured Party may be entitled on account of Debtor's default.

Section 5. Representations and Warranties Debtor represents and warrants to Secured Party that:

(a) Title It has rights in the Collateral, and its title to the Collateral is free of all adverse claims, liens, security interests and restrictions on transfer or pledge except as created by this Agreement

(b) Location of Collateral. All Collateral will be located solely in the State of Alaska

(c) Location of Debtor. Debtor's chief executive office is located in the State of Alaska

Section 6. Debtor's Covenants. Until the Obligations have been paid and performed in full, Debtor agrees that it will comply with the following covenants:

(a) Notice of Default. Immediately upon obtaining knowledge of the occurrence of any event which constitutes an Event of Default, or which with notice or lapse of time, or both, would constitute an Event of Default, Debtor shall give written notice thereof to Secured Party, together with a detailed statement of the steps being taken by Debtor to cure such Event of Default.

(b) Notice of Litigation. Debtor shall promptly notify Secured Party in writing of the initiation of any litigation against Debtor which in Debtor's good-faith judgment might materially and adversely affect the operations, financial condition, property or business of Debtor.

(c) Accounts and Reports. Debtor shall keep true and accurate records and books of account in which full, true and correct entries shall be made of all dealings or transactions in relation to its business and affairs in accordance with generally accepted accounting principles applied on a consistent basis.

Section 7. Default.

(a) Event of Default. An Event of Default shall be as defined in the Master Contract. For purposes of Section 13.01(a) of the Master Contract, Event of Default under Section 13.01(a) shall include a failure to pay a payment as required under this Agreement, for purposes of Section 13.01(b) of the Master Contract, Event of Default under Section 13.01(b) shall include failure by Debtor to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement; and for purposes of Section 13.01(c) of the Master Contract, Event of Default under Section 13.01(c) shall include any statement, representation or warranty made by Debtor in or pursuant to this Agreement or its execution, delivery or performance shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made.

(b) Remedies Upon Default. Upon any Event of Default, Secured Party may pursue any remedy available at law (including those available under the provisions of the UCC), or in equity, to collect, enforce or satisfy any Obligations then owing. Without limiting the foregoing, upon any Event of Default, Secured Party shall have the right

to pursue any of the following remedies separately, successively or simultaneously:

(i) **File suit and obtain judgment and, in connection with any action, Secured Party may seek any ancillary remedies provided by law, including levy of attachment and garnishment**

(ii) **Take possession of any Collateral if not already in its possession without demand and without legal process. Upon Secured Party's demand, Debtor will assemble and make the Collateral available to Secured Party as Secured Party directs. Debtor grants to Secured Party the right, for this purpose, to enter into or on any premises where the Collateral may be located.**

(iii) **Without taking possession, sell, lease or otherwise dispose of the Collateral at a public or private sale in accordance with the UCC.**

(iv) **Such other Remedies as set forth in Section 13.02 of the Master Contract.**

**Section 8. Default Costs. Should an Event of Default occur, Debtor will pay to Secured Party all costs reasonably incurred by the Secured Party for the purpose of enforcing their rights hereunder as set forth in the Master Contract.**

**Section 9. Foreclosure Procedures.**

(a) **No Waiver. No delay or omission by Secured Party to exercise any right or remedy accruing upon any Event of Default shall: (i) impair any right or remedy, (ii) waive any default, (iii) operate as an acquiescence to the Event of Default, or (iv) affect any subsequent default of the same or a different nature**

(b) **Notices. Secured Party shall give Debtor such notice of any private or public sale as may be required by the UCC.**

(c) **Condition of Collateral. Secured Party has no obligation to clean-up or otherwise prepare the Collateral for sale.**

(d) **No Obligation to Pursue Others. Secured Party has no obligation to attempt to satisfy the Obligations by collecting them from any other person liable for them and Secured Party may release, modify or waive any collateral provided by any other person to secure any of the Obligations, all without affecting Secured Party's rights against Debtor. Debtor waives any right it may have to require Secured Party to pursue any third person for any of the Obligations.**

(e) **Compliance with Other Laws. Secured Party may comply with any applicable state or federal law requirements in connection with a disposition of the Collateral and compliance will not be considered adversely to affect the commercial reasonableness of any sale of the Collateral.**

(f) **Warranties. Secured Party may sell the Collateral without giving any warranties as to the Collateral. Secured Party may specifically disclaim any warranties of title or the like. This procedure will not be considered adversely to affect the commercial reasonableness of any sale of the Collateral.**

(g) **Sales on Credit. If Secured Party sells any portion of the Collateral upon credit, Debtor will be credited only with payments actually made by the purchaser, received by Secured Party and applied to the indebtedness of Debtor. In the event the purchaser fails to pay for the Collateral, Secured Party may resell the Collateral and Debtor shall be credited with the proceeds of the sale.**

(h) **Purchases by Secured Party. In the event Secured Party purchase any of the Collateral being sold, Secured Party may pay for the Collateral by crediting some or all of the Obligations of the Debtor.**

(i) **No Marshaling Secured Party shall have no obligation to marshal any assets in favor of Debtor, or against or in payment of the Obligations, or any other obligation owed to Secured Party by Debtor or any other person.**

**Section 10. Termination of Security Agreement and Release of Security Interest. Upon the payment and**

performance in full of all the Obligations, this Security Agreement will terminate and Secured Party shall take such actions as Debtor reasonably requests to terminate the security interest granted hereunder. Collateral may be released from the security interest granted hereunder, upon the following conditions.

(i) the remaining Collateral under this Security Agreement will have an appraised value as determined by a third party appraiser of locomotives satisfactory to Secured Party equal or greater than 120% of the principal amount of obligations outstanding under the Master Contract, such appraisal shall be in the form of a written report customary for appraisals of locomotives;

(ii) Debtor agrees to pay all costs and expenses associated with the release of said Collateral, including the appraisal, drafting of documents, lien searches, lien release and Secured Party's reasonable legal expenses;

(iii) an opinion of tax counsel reasonably acceptable to Secured Party that the release of the Collateral will not materially impact the tax-exempt nature of interest payments related under the Master Contract.

#### Section 11. General

(a) Successors and Assigns This Agreement and all rights and liabilities hereunder and in and to any and all obligations secured hereby and in and to all Collateral shall inure to the benefit of the Secured Party and its successors and assigns and shall be binding upon Debtor and its successors and assigns. This Agreement shall bind all persons who become bound as a debtor to this Agreement. Secured Party does not consent to any assignment by Debtor except as expressly provided in this Agreement.

(b) Severability. Should any one or more provisions of this Agreement be determined to be illegal or unenforceable, all other provisions nevertheless shall be effective.

(c) Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Alaska.

(d) Rules of Construction. No reference to "proceeds" in this Agreement authorizes any sale, transfer or other disposition of Collateral by Debtor. "Includes" and "including" are not limiting. "Or" is not exclusive. "All" includes "any" and "any" includes "all."

(e) Headings Section headings used in this Agreement are for convenience only. They are not a part of this Agreement and shall not be used in construing it.

(f) Integration This Agreement is the entire agreement of Debtor and Secured Party concerning its subject matter. Any modification to this Agreement must be made in writing and signed by the party to be bound.

(g) Waiver. Any party to this Agreement may waive the enforcement of any provision to the extent the provision is for its benefit. All waivers must be in writing.

(h) Waiver of Jury Trials. Debtor and Secured Party hereby irrevocably waive all right to trial by jury in any action, proceeding or counterclaim (whether based on contract, tort or otherwise) arising out of or relating to this Agreement or the actions of Secured Party or Debtor in the negotiation, administration, performance or enforcement hereof.

(i) Further Assurances. Debtor agrees to execute any further documents, and to take further actions, reasonably requested by Secured Party to evidence or perfect the security interest granted herein, to maintain the first priority of the security interests, or to effectuate the rights granted to Secured Party herein.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first mentioned above.

<b>Secured Party: Key Government Finance, Inc.</b>
By. <i>Regina A. Eckendorf</i>
Name: <b>REGINAA. ECKENDORF</b>
<b>DIRECTOR OF OPERATIONS</b>
Title


<b>Debtor: Alaska Railroad Corporation</b>
By
Name.
Title:

[Notary pages follow.]



IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first mentioned above.

<b>Secured Party: Key Government Finance, Inc.</b>
<b>By:</b>
<b>Name:</b>
<b>Title:</b>

<b>Debtor: Alaska Railroad Corporation</b>
<b>By:</b> 
<b>Name: Christopher Aadnesen</b>
<b>Title: President &amp; CEO</b>

[Notary pages follow.]

)

)

)

*Regina A. Eilendorf*  
 behalf of the corporation.

**Notary Public in and for Colorado**

## My Commission Expires

)

)

)

\_\_\_\_\_, President & Chief Executive Officer of the Alaska Railroad Corporation, a public corporation created by Alaska Statute 42.40, on behalf of the corporation.

**Notary Public in and for Alaska**

### My Commission Expires.

STATE OF COLORADO       )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

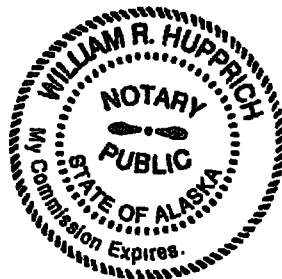
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of December, 2010 by \_\_\_\_\_, Operations Director of the Key Government Finance, Inc., a Colorado corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public in and for Colorado

My Commission Expires: \_\_\_\_\_

STATE OF ALASKA       )  
  ) ss.  
THIRD JUDICIAL DISTRICT   )

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of December, 2010 by Chris Anderson, President & Chief Executive Officer of the Alaska Railroad Corporation, a public corporation created by Alaska Statute 42.40, on behalf of the corporation.



William R. Hupprich

Notary Public in and for Alaska

My Commission Expires: 5/26/12